

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEMPER INDEPENDENCE
INSURANCE COMPANY, an Illinois
corporation,

Plaintiff,

v.

ALLAN DOUGLAS BOYER;
RAYMOND MENDOZA JR.,

Defendants.

No. 2:22-cv-1458 MCE DB

ORDER

On November 18, 2022, plaintiff filed a motion for default judgment against defendant Allan Douglas Boyer and noticed the motion for hearing before the undersigned pursuant to Local Rule 302(c)(19).¹ (ECF No. 15.) The motion is currently set for hearing before the undersigned on January 13, 2023. It does not appear, however, that plaintiff filed proof of service of notice of the motion on the defendants.

It is true that service of a motion for default judgement on a defaulting party is not required. See Fed. R. Civ. P. 55(b)(2) (requiring that written notice of an application for default judgment be served upon the party against whom judgment is sought only if that party “has

¹ Defendant Raymond Mendoza Jr. has been dismissed from this action. (ECF No. 21.)

1 appeared in the action"); Local Rule 135(d) (excusing parties from serving documents submitted
2 to the court upon "parties held in default for failure to appear" unless a document asserts new or
3 additional claims for relief against the defaulting parties). However, it is also true that a
4 defendant's "appearance need not necessarily be a formal one, i.e., one involving a submission or
5 presentation to the court. In limited situations, informal contacts between the parties have
6 sufficed when the party in default has thereby demonstrated a clear purpose to defend the suit."
7 Wilson v. Moore & Associates, Inc., 564 F.2d 366, 369 (9th Cir. 1977). Therefore, out of an
8 abundance of caution, it is the undersigned's practice to request that a plaintiff seeking default
9 judgment serve all defendants with notice of the motion for default judgment.

10 Accordingly, IT IS HEREBY ORDERED that:

- 11 1. The January 13, 2023 hearing of plaintiff's motion for default judgment (ECF No. 15)
12 is continued to **February 17, 2023**;
- 13 2. On or before **January 27, 2023**, plaintiff shall serve a copy of the motion for default
14 judgment, and a copy of this order, on each defendant; and
- 15 3. On or before **February 3, 2023**, plaintiff shall file proof of such service.

16 DATED: January 10, 2023

/s/ DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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